IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

OP.No. 23781 of 1998(F)

PETITIONER:

M/S.C.SAMOO IYER &SONS,
JAGGERY MERCHANTS, BIG BAZAAR,
PALAKKAD, REP. BY P.S.NARAYANA IYER MANAGER.

BY ADV. SRI.JOSE JOSEPH

RESPONDENTS:

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1. THE INTELLIGENCE OFFICER, AGRICULTURAL INCOME TAX & SALES TAX, PALAKKAD.

2. THE ASSISTANT COMMISSIONER(ASSMT.), SALES TAX SPECIAL CIRCLE, PALAKKAD.

3. THE DEPUTY COMMISSIONER OF AGRICULTURAL INCOME TAX & SALES TAX,(NOW COMMERCIAL TAXES), PALAKKAD.

4. THE COMMISSIONER OF COMMERCIAL TAXES, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NOS.41828/1998 & 60816/2001 IN O.P. 23781/1998

DISMISSED:

28.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF NOTICE OF R1 DT.8.1.1988.

P2: TRUE COPY OF PETITIONER'S REPLY TO EXT.P1 NOTICE DT.309.1.1988.

P3: TRUE COPY OF DETAILED REPLY FILED BY PETITIONER TO EXT.P1 NOTICE DT.5.3.1988.

P4: TRUE COPY OF NOTICE OF R2 TO IMPOSE PENALTY DT.5.12.96.

P5: TRUE COPY OF PETITIONER'S LETTER TO R2 DT.3.1.97.

P6: TRUE COPY OF LETTER ISSUED BY R2 TO THE PETITIONER DT.1.2.1997..

P7: TRUE COPY OF ORDER OF R3 IN R.P. NO.19/97 DT.28.5.97.

P8: TRUE COPY OF REVISION PETITION FILED BEFORE R4 DT.29.6.97.

P9: TRUE COPY OF ORDER OF R4 IN STRP NO.552/1997 DT.28.8.98.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.23781 of 1998

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Dated this the 28th day of November, 2007.

JUDGMENT

The petitioner is challenging Ext.P9 order whereunder the Commissioner has modified order in first revision reducing penalty levied under Section 45A of the KGST Act from Rs.64,524/- to Rs.40,000/-.

2. I heard counsel for the petitioner and the Government Pleader. Even though counsel for the petitioner contended that suppression is not established, it is clear from Ext.P9 that petitioner has made purchase suppression in respect of purchase covered by 34 delivery notes. Government Pleader submitted that pattern of suppression is established in as much as the petitioner was accounting only 10% of the actual purchase which is disclosed in the delivery notes. I do not find there is any scope for interference with the concurrent finding of fact entered by three authorities based on evidence. Penalty levied is also reasonable and there is no scope for interfering with the quantum of penalty. The O.P. is accordingly dismissed.

C.N.RAMACHANDRAN NAIR
Judge

pms